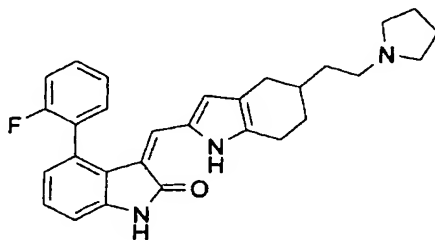


## **REMARKS**

### **I. INTRODUCTION**

Receipt of the Restriction Requirement of June 16, 2004 is acknowledged. Applicants elect with traverse Group IV. Claims 1 and 2 have been amended to reflect the subject matter of this election. Thus, it is requested that the Examiner modify the restriction requirement to include claims 1 and 2 in the elected group insofar as they read on the elected subject matter. Applicants elect as the elected species the compound of example 145. The Examiner will note that the species of example 145 contains R<sup>1</sup> as an phenyl moiety and R<sup>4</sup> and R<sup>5</sup> are linked to form a six membered carbocyclic ring fused to the pyrrole. The compound of example 145 is as follows:



Claims 1 and 2 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-20 are now pending in this application.

### **II. RESTRICTION/ELECTION OF SPECIES**

The Examiner has restricted the present claims into five groups and has provided reasoning establishing the distinctness of the groups. Applicants traverse the restriction requirement.

The traversal is on the ground that the Examiner has not established that searching and examining all the claimed subject matter would constitute an undue burden. Furthermore, searching claims 1-20 insofar as they read on the elected subject matter would involve searching concurrent classes and subclasses where a search of the compounds, pharmaceutical compositions and methods of use would be searched. It is respectfully submitted that pursuant to the Official Gazette notice of March 26, 1996 which establishes guidelines for treatment of product and process claims in light of In re Ochiai, method of use claims which are of the same scope as allowed product claims should be included herein for consideration on the merits. Therefore, it is requested that claims 1-20 be included in Group IV insofar as they read on the elected subject matter.

It is understood that should the Examiner find the above species allowable, then the search and examination of the entire application will proceed according to the procedure set forth in MPEP § 803.02.

Applicants also reserve the right to file a divisional application covering the subject matter of the non-elected claims.

Receipt of the initial Office Action on the merits is awaited.

### III. CONCLUSION

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date July 16, 2004

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